

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

DOCKET NO. 2002-296

June 4, 2002

PUBLIC UTILITIES COMMISSION
Order Revoking Authority of
XDSL Networks, Inc.

ORDER REVOKING
AUTHORITY

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

On March 26, 2002, the Commission sent a certified letter to XDSL Networks, Inc. directing it to provide information and payments to the National Exchange Carrier Association, Inc. (NECA). NECA is the current Maine Telecommunications Education Access Fund (MTEAF) administrator for the Maine PUC.¹ All telecommunications carriers in Maine must provide information to NECA concerning instate revenues and must forward the required assessment on a monthly basis. NECA reported to the PUC that XDSL Networks, Inc. was substantially delinquent in providing the monthly worksheets that have been required since July 2001. The March 26 letter directed XDSL Networks, Inc. to respond to NECA within thirty days with copies to the Maine PUC.

The certified letter (with return receipt) to XDSL Networks, Inc., using the address supplied to the PUC was returned as "undeliverable." Before the letter was sent, NECA also attempted to contact XDSL Networks, Inc..

As a condition of XDSL Networks, Inc.'s authority to operate in Maine, current contact information must be maintained with the Commission as well as adhering to statutory reporting requirements and PUC rules. The Order granting XDSL Networks, Inc. authority to provide service requires it to inform the Commission of changes in a carrier's contact person.² In addition, under Chapter 285 of the Commission's rules, telecommunications carriers must provide the required information and payments for the MTEAF. Finally, in applying for authority to provide service, the applicant must state that it is "willing and able to comply with State law and Public Utilities Commission rules, including, but not limited to, this Chapter," Chapter 280 §4(A)(3). XDSL Networks, Inc. has not complied with these conditions.

35-A M.R.S.A. § 1321 allows the Commission "at any time" to "rescind, alter or amend any order it has made." XDSL Networks, Inc.'s authority to provide service was established by a Commission order issued pursuant to 35-A M.R.S.A. §§ 2102 and

¹ Pursuant to 35-A MRSA § 7104-B, the Legislature authorized the Maine PUC to establish the Maine Telecommunications Education Access Fund. The Maine PUC has established the MTEAF through the adoption of Chapter 285 of its rules.

² Chapter 280 § 12(C) requires interexchange carriers to provide such notice.

2105 in Docket No. 99-098, issued on February 10, 2000. The Commission may take action under section 1321 “only if it gives the public utility ..., to the extent practical, written notice and after opportunity...to present evidence or argument, as determined appropriate by the commission.” For the reasons described above, we find that it is not practical to provide XDSL Networks, Inc. with notice and an opportunity to be heard.

Accordingly, XDSL Networks, Inc.'s authority to operate in Maine is revoked.

Dated at Augusta, Maine, this 4th day of June, 2002.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.